

SECOND REGULAR SESSION

SENATE BILL NO. 840

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR GOODE.

Pre-filed December 1, 2003, and ordered printed.

TERRY L. SPIELER, Secretary.

2652S.07I

AN ACT

To repeal sections 304.155 and 577.080, RSMo, and to enact in lieu thereof seven new sections relating to motor vehicles, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 304.155 and 577.080, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 301.196, 301.197, 301.198, 304.021, 304.154, 304.155 and 577.080, to read as follows:

301.196. 1. Beginning January 1, 2005, except as otherwise provided in this section, the transferor of an interest in a motor vehicle covered by a Missouri title shall notify the department of revenue of the transfer within ten days of the date of transfer. The notice shall be in a form determined by the department by rule and shall contain:

- (1) A description of the motor vehicle sufficient to identify it;**
- (2) The vehicle identification number of the motor vehicle;**
- (3) The name and address of the transferee;**
- (4) The date of birth of the transferee, unless the transferee is not a natural person;**
- (5) The date of the transfer or sale;**
- (6) The purchase price of the motor vehicle, if applicable;**
- (7) The number of the transferee's drivers license, unless the transferee is a vehicle dealer or does not have a drivers license;**
- (8) The signature of the transferee;**
- (9) Any other information required by the department by rule.**

2. For purposes of giving notice under this section, if the transfer occurs by operation of law, the personal representative, receiver, trustee, sheriff, or other representative or successor in interest of the person whose interest is transferred shall be considered the transferor.

3. The requirements of this section do not apply to transfers where there is the creation, termination, or change in a security interest or a leasehold when there is no complete change of ownership interest or upon award of ownership of a motor vehicle made by court order.

4. A new motor vehicle franchise dealer, as defined in section 301.550, is exempt from the notice requirement of this section.

5. Notification provided under this section is for informational purposes only and does not constitute an assignment or release of any interest in the vehicle.

301.197. 1. Beginning January 1, 2005, upon receipt of a notification of transfer described in section 301.196, the department shall make a notation on its records indicating that it has received notification that an interest in the vehicle has been transferred. The notation shall be made whether or not the form submitted to the department contains all the information required by section 301.196, so long as there is sufficient information to identify the vehicle and the name and address of the transferee. Thereafter, until a new title is issued, when the department is asked to provide the name of the owner of a vehicle as shown on its records, the department shall provide the name of the transferor and indicate that department records show a notification of transfer but do not show a title transfer. The department shall also provide the name of the transferee if it is shown on the form submitted by the transferor pursuant to section 301.196.

2. If the department does not receive an application for title from the person named as transferee in a form submitted pursuant to section 301.196 within sixty days of the receipt of the form, the department shall notify the transferee to apply for title. Notification shall be made as soon after the sixtieth day after receipt of the form as is convenient for the department. The provisions of this subsection shall be in addition to the requirements of section 301.190.

3. The department may adopt rules for the implementation of section 301.196 and this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

301.198. Beginning January 1, 2005, a person commits the offense of

knowingly submitting false information about transfer of a vehicle if the person submits a notice of transfer of an interest in a vehicle as described in section 301.196 to the department of revenue and the person knows that some or all of the information contained in the notice is false. The offense described in this section, knowingly submitting false information about transfer of a vehicle, is a class C misdemeanor.

304.021. Any wrecker, tow truck, or rollback, requested by law enforcement pursuant to this chapter, shall be considered an emergency vehicle, after such vehicle arrives at the scene of a vehicle accident. A vehicle containing additional equipment for emergency clean-ups that arrives to assist the above vehicles shall also be considered an emergency vehicle pursuant to this section. The vehicles in this section shall only be considered emergency vehicles after arriving and when working the scene at the direction and supervision of law enforcement.

304.154. 1. Beginning January 1, 2005, a towing company operating a tow truck pursuant to the authority granted in section 304.155 or section 304.157 shall:

- (1) Have and occupy a verifiable commercial address;
- (2) Have a fenced, secure, and lighted storage lot or an enclosed, secure building for the storage of motor vehicles;
- (3) Be available twenty-four hours a day, seven days a week. Availability shall mean that an employee of the towing company or an answering service answered by a person is able to respond to a tow request;
- (4) Maintain a valid insurance policy issued by an insurer authorized to do business in this state, or a bond or other acceptable surety providing coverage for the death of, or injury to, persons and damage to property for each accident or occurrence in the amount of at least one million dollars per incident;
- (5) Provide workers' compensation insurance for all employees of the towing company if required by chapter 287, RSMo; and
- (6) Maintain current motor vehicle registrations on all tow trucks within the towing company fleet.

2. Municipalities and counties may adopt ordinances with respect to towing company standards in addition to the minimum standards contained in this section.

304.155. 1. Any law enforcement officer within the officer's jurisdiction, or an officer of a government agency where that agency's real property is concerned, may authorize a towing company to remove to a place of safety:

- (1) Any abandoned property on the right-of-way of:
 - (a) Any interstate highway or freeway in an urbanized area, left unattended for ten hours, or within two hours if a law enforcement officer determines that the

abandoned property is a serious hazard to other motorists;

(b) Any interstate highway or freeway outside of an urbanized area, left unattended for forty-eight hours, **or within two hours if a law enforcement officer determines that the abandoned property is a serious hazard to other motorists;**

(c) Any state highway other than an interstate highway or freeway in an urbanized area, left unattended for more than ten hours; or

(d) Any state highway other than an interstate highway or freeway outside of an urbanized area, left unattended for more than forty-eight hours; provided that commercial motor vehicles not hauling waste designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;

(2) Any unattended abandoned property illegally left standing upon any highway or bridge if the abandoned property is left in a position or under such circumstances as to obstruct the normal movement of traffic where there is no reasonable indication that the person in control of the property is arranging for its immediate control or removal;

(3) Any abandoned property which has been abandoned under section 577.080, RSMo;

(4) Any abandoned property which has been reported as stolen or taken without consent of the owner;

(5) Any abandoned property for which the person operating such property is arrested for an alleged offense for which the officer is required to take the person into custody and where such person is unable to arrange for the property's timely removal;

(6) Any abandoned property which due to any other state law or local ordinance is subject to towing because of the owner's outstanding traffic or parking violations;

(7) Any abandoned property left unattended in violation of a state law or local ordinance where signs have been posted giving notice of the law or where the violation causes a safety hazard; or

(8) Any abandoned property illegally left standing on the waters of this state as defined in section 306.010, RSMo, where the abandoned property is obstructing the normal movement of traffic, or where the abandoned property has been unattended for more than ten hours or is floating loose on the water.

2. The state transportation department may immediately remove any abandoned, unattended, wrecked, burned or partially dismantled property, spilled cargo or other personal property from the roadway of any state highway if the abandoned property, cargo or personal property is creating a traffic hazard because of its position in relation to the state highway. In the event the property creating a traffic hazard is a commercial motor vehicle, as defined in section 302.700, RSMo, the department's authority under this subsection shall be limited to authorizing a towing company to remove the commercial motor vehicle to a place of safety, except that the owner of the commercial motor vehicle or the owner's designated

representative shall have a reasonable opportunity to contact a towing company of choice. The provisions of this subsection shall not apply to vehicles transporting any material which has been designated as hazardous under Section 5103(a) of Title 49, U.S.C.

3. Any law enforcement agency authorizing a tow pursuant to this section in which the abandoned property is moved from the immediate vicinity shall complete a crime inquiry and inspection report. Any state or federal government agency other than a law enforcement agency authorizing a tow pursuant to this section in which the abandoned property is moved away from the immediate vicinity in which it was abandoned shall report the towing to the state highway patrol or water patrol within two hours of the tow along with a crime inquiry and inspection report as required in this section. Any local government agency, other than a law enforcement agency, authorizing a tow pursuant to this section where property is towed away from the immediate vicinity shall report the tow to the local law enforcement agency within two hours along with a crime inquiry and inspection report.

4. Neither the law enforcement officer, government agency official nor anyone having custody of abandoned property under his direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by this section or by ordinance of a county or municipality licensing and regulating the sale of abandoned property by the municipality, other than damages occasioned by negligence or by willful or wanton acts or omissions.

5. The owner of abandoned property removed as provided in this section or in section 304.157 shall be responsible for payment of all reasonable charges for towing and storage of such abandoned property as provided in section 304.158.

6. Upon the towing of any abandoned property pursuant to this section or under authority of a law enforcement officer or local government agency pursuant to section 304.157, the law enforcement agency that authorized such towing or was properly notified by another government agency of such towing shall promptly make an inquiry with the national crime information center and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen and shall enter the information pertaining to the towed property into the statewide law enforcement computer system. If the abandoned property is not claimed within ten working days of the towing, the law enforcement agency shall submit a crime inquiry and inspection report to the director of revenue. A towing company in possession of abandoned property after ten working days shall report such fact to the law enforcement agency with which the crime inquiry and inspection report was filed. The crime inquiry and inspection report shall be designed by the director of revenue and shall include the following:

- (1) The year, model, make and property identification number of the property and the owner and any lienholders, if known;
- (2) A description of any damage to the property noted by the officer authorizing the

tow;

- (3) The license plate or registration number and the state of issuance, if available;
- (4) The storage location of the towed property;
- (5) The name, telephone number and address of the towing company;
- (6) The date, place and reason for the towing of the abandoned property;
- (7) The date of the inquiry of the national crime information center, any statewide

Missouri law enforcement computer system and any other similar system which has titling and registration information to determine if the abandoned property had been stolen. This information shall be entered only by the law enforcement agency making the inquiry;

(8) The signature and printed name of the officer authorizing the tow and the towing operator; and

- (9) Any additional information the director of revenue deems appropriate.

7. One copy of the crime inquiry and inspection report shall remain with the agency which authorized the tow. One copy shall be provided to and retained by the storage facility and one copy shall be retained by the towing facility in an accessible format in the business records for a period of three years from the date of the tow or removal.

8. The owner of such abandoned property, or the holder of a valid security interest of record, may reclaim it from the towing company upon proof of ownership or valid security interest of record and payment of all reasonable charges for the towing and storage of the abandoned property.

9. Any person who removes abandoned property at the direction of a law enforcement officer or an officer of a government agency where that agency's real property is concerned as provided in this section shall have a lien for all reasonable charges for the towing and storage of the abandoned property until possession of the abandoned property is voluntarily relinquished to the owner of the abandoned property or to the holder of a valid security interest of record. Any personal property within the abandoned property need not be released to the owner thereof until the reasonable or agreed charges for such recovery, transportation or safekeeping have been paid or satisfactory arrangements for payment have been made, except that any medication prescribed by a physician shall be released to the owner thereof upon request. The company holding or storing the abandoned property shall either release the personal property to the owner of the abandoned property or allow the owner to inspect the property and provide an itemized receipt for the contents. The company holding or storing the property shall be strictly liable for the condition and safe return of the personal property. Such lien shall be enforced in the manner provided under section 304.156.

10. Towing companies shall keep a record for three years on any abandoned property towed and not reclaimed by the owner of the abandoned property. Such record shall contain information regarding the authorization to tow, copies of all correspondence with the department of revenue concerning the abandoned property, and information concerning the

final disposition of the possession of the abandoned property.

11. If a lienholder repossesses any motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel without the knowledge or cooperation of the owner, then the reposessor shall notify the local law enforcement agency where the repossession occurred within two hours of the repossession and shall further provide the local law enforcement agency with any additional information the agency deems appropriate. The local law enforcement agency shall make an inquiry with the national crime information center and the Missouri statewide law enforcement computer system and shall enter the repossessed vehicle into the statewide law enforcement computer system.

577.080. 1. A person commits the crime of abandoning a motor vehicle if he abandons any motor vehicle on the right-of-way of any public road or state highway or on or in any of the waters in this state or on the banks of any stream, or on any land or water owned, operated or leased by the state, any board, department, agency or commission thereof, or any political subdivision thereof or on any land or water owned, operated or leased by the federal government or on any private real property owned by another without his consent.

2. **For purposes of this section, the last owner of record of a motor vehicle found abandoned and not shown to be transferred pursuant to sections 301.196 and 301.197, RSMo, shall be deemed prima facie to have been the owner of such motor vehicle at the time it was abandoned and to have been the person who abandoned the motor vehicle or caused or procured its abandonment. The registered owner of the abandoned motor vehicle shall not be subject to the penalties provided by this section if the motor vehicle was in the care, custody, or control of another person at the time of the violation. In such instance, the owner shall submit such evidence in an affidavit permitted by the court setting forth the name, address, and other pertinent information of the person who leased, rented or otherwise had care, custody, or control of the vehicle at the time of the alleged violation. The affidavit submitted pursuant to this subsection shall be admissible in a court proceeding adjudicating the alleged violation and shall raise a rebuttable presumption that the person identified in the affidavit was in actual control of the vehicle. In such case, the court has the authority to terminate the prosecution of the summons issued to the owner and issue a summons to the person identified in the affidavit as the operator. If the vehicle is alleged to have been stolen, the owner of the vehicle shall submit proof that a police report was filed in a timely manner indicating that the vehicle was stolen at the time of the alleged violation.**

3. Abandoning a motor vehicle is a class A misdemeanor.

4. Any person convicted pursuant to this section shall be civilly liable for all towing, storage, and administrative costs associated with the abandonment of the motor vehicle. Any towing, storage, and administrative costs in excess of the

value of the abandoned motor vehicle that exist at the time the motor vehicle is transferred pursuant to section 304.156, RSMo, shall remain the liability of the owner of the motor vehicle unless another person was in charge or control of the motor vehicle at the time of its abandonment, as provided by this section.

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